

REMARKS

Reconsideration of the instant application is respectfully requested. The present amendment is responsive to the Office Action of June 22, 2005, in which claims 1-19 are presently pending. Of those, claim 19 has been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. With regard to the cited art of record, each of claims 1-19 has been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,570,360 to Freeman.

As an initial matter, Figures 1 and 5 have been amended to correct errors discovered therein, as depicted in the replacement sheets submitted herewith.

With regard to the §102 rejections over the art of record, independent claims 1, 10 and 19 have been amended as outlined above to more particularly point out that the BEMF sampling and subsequent waveform generation are carried out while the motor is in a deenergized condition after an initial rotation. Support for this amendment is found at least in paragraphs [0031] - [0035] of the specification, as well as in Figure 5.

In contrast, the Freeman reference does not teach or disclose deenergization of the motor after the initial rotation thereof, after which a BEMF indicating phase voltage is detected and a waveform indicative of the BEMF is then generated. Thus, the §102 rejections of each of the pending claims have been overcome on this basis.

Moreover, claims 2 and 11 are amended to further include language reciting compensating for decreasing frequency and amplitude of the generated waveform (since the BEMF of the deenergized motor decreases in amplitude as motor speed decreases). Support for this amendment is found at least in paragraph [0032] of the specification. Again, since Freeman does not teach or disclose BEMF voltage sampling and waveform

equalization of a deenergized motor, claims 2 and 11 are separately patentable on this basis.


Finally, as to both the objection to the drawings (outlined on page 2 of the Office Action) and the §112, second paragraph rejection of claim 19, the Applicant has also amended claim 19 to more specifically set forth the format of a computer program product claim (article of manufacture) in accordance with *In Re Beauregard*. Furthermore, as to the requirement that the drawings must show the features “machine readable computer program code” and “instructions,” the Applicant respectfully traverses the same. 37 CFR 1.81 requires drawings “where necessary for the understanding of the subject matter sought to be patented...” It is noted that the conventional features of claim 19 such as the “computer” and the “storage medium” are in fact shown in Figure 1 (e.g., controller 20 including a digital signal processor, and storage media 17).

One skilled in the art will recognize that there many different ways in which the claimed methodology may be encoded so as to be able to be executed by a computer device. Thus, aspects such “computer program code” and “instructions” are not particularly amenable to inclusion in the Figures, and are not necessary for an understanding of the claimed subject matter. As such, the Applicant respectfully submits that the drawings and claim 19, as presently amended, overcome the Examiner’s objection to the drawings and the §112, second paragraph rejection of claim 19.

For the reasons outlined above, the Applicant respectfully submits that the present amendment places the application in condition for allowance. No new matter has been entered and no additional fees are believed to be required. However, if any fees are due with respect to this Amendment, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,
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